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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,630	05/30/2006	Thomas Froitzheim	KAT025	7160

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GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC  
55 SOUTH COMMERICAL STREET  
MANCHESTER, NH 03101

EXAMINER
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HOOK, JAMES F

ART UNIT	PAPER NUMBER
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3754

MAIL DATE	DELIVERY MODE
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05/04/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/560,630

Applicant(s)

FROITZHEIM ET AL.

Examiner

James F. Hook

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the calibration bar must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 5-8 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Sadr in view of Kraus. The patent to Sadr discloses the recited blow molded pipe made of plastic which is a fuel filler pipe for a fuel tank, consisting of a multilayer coextruded material having opening portions at each end, each with a flange and/or face for welding to connecting pieces, where it is considered that such would inherently be calibrated in that they are formed to make the connection to other objects and would therefore inherently be calibrated to make this connection, the pipe is formed with curves in at least two planes, such is formed seamlessly, an impermeable layer acting as a barrier layer 18 for hydrocarbons such as EVOH, provided in layers of polyethylene 22,12, where there are at least 5-6 layers provided. It is considered that the newly added language is merely method steps used to create the expanded end, where Sadr does set forth an embodiment with an

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expanded end. It is known that method steps do not impart any structural limitations to article claims unless such would materially change the final product and it is the examiners position that any method can be used to form an expanded end and such would result in an expanded end no matter what method was used. However, such would also be considered obvious in light of the teachings of Kraus which sets forth it is old and well known in the art to form the expanded ends of blow molded filling tubes using a calibration tool such as 82 to form the expanded end in the tube structure. It would have been obvious to one skilled in the art to modify the end of Sadr by forming such using a calibration bar to form the expanded end as suggested by Kraus where such can be used in combination with a blow molding step to form a specifically shaped end of an expanded tube member to insure proper shape, where such would save costs due to failure of the joint due to the improper shaping of the end of the tube.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sadr in view of Chan. The patent to Sadr discloses all of the recited structure with the exception of describing the flanged end portions and how they are formed. The reference to Chan discloses that it is old and well known in the art to form fuel

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containing structures made of polyethylene and EVOH where the end can be flanged such that the end face of the flanged layer is formed by the inner layer 11. It would have been obvious to one skilled in the art to modify the flanged ends of Sadr by forming such in a manner that the inner layer forms the end face as suggested by Chan where such is an equivalent manner to form a flange on a fuel contacting shaped article where such would insure a proper connection to the element the pipe is being attached to thereby preventing leakage.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sadr in view of Kraus as applied to claims 1-3 and 5-8 above, and further in view of Chan. The patent to Sadr as modified discloses all of the recited structure with the exception of describing the flanged end portions and how they are formed. The reference to Chan discloses that it is old and well known in the art to form fuel containing structures made of polyethylene and EVOH where the end can be flanged such that the end face of the flanged layer is formed by the inner layer 11. It would have been obvious to one skilled in the art to modify the flanged ends of Sadr as modified by forming such in a manner that the inner layer forms the end face as suggested by Chan where such is an equivalent manner to form a flange on a fuel contacting shaped article where such would insure a proper connection to the element the pipe is being attached to thereby preventing leakage.

***Response to Arguments***

Applicant's arguments filed January 23, 2007 have been fully considered but they are not persuasive. As per the rejection above, it is felt that the subject matter added to claim 1, on which applicant's arguments are based, are merely a method of making the end and not an actual structural limitation of the article itself therefore this argument is not persuasive, however, a rejection has also been made with a teaching reference that this is known in the art to form the expanded ends of a blow molded tube using the same method applicant does thereby rendering the arguments moot in light of this rejection.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references to Chenoweth and Siferd disclosing state of the art pipes with expanded ends.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

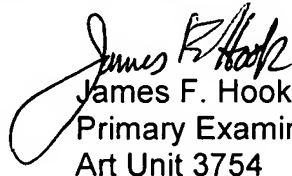
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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James F. Hook whose telephone number is (571) 272-4903. The examiner can normally be reached on Monday to Wednesday, work at home Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
James F. Hook  
Primary Examiner  
Art Unit 3754

JFH